

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Preparation for International)
Telecommunications Union) ET Docket No. 93-198
World Radiocommunication)
Conference)
)

REPLY COMMENTS OF NATIONAL PUBLIC RADIO

National Public Radio (NPR) offers the following Reply Comments in response to the comments filed in the above identified docket. NPR is a nonprofit, noncommercial organization that provides programming and interconnection services to 478 full-service public radio stations and represents them in developing and maintaining a viable and diverse public radio service for the American public.

NPR has participated in numerous Commission proceedings relating to the development of digital audio services. NPR responds in these Reply Comments to the suggestion of several parties that the United States oppose all efforts to place consideration of Digital Audio Radio Services (DARS) or Broadcasting-Satellite Sound (BSS-Sound) on the agendas of future World Radiocommunication Conferences. NPR strongly disagrees with the premise of these suggestions -- that the position the United States took at WARC-92 with respect to spectrum allocation for DARS should be immune from reexamination under all

NPR has consistently urged the Commission to designate L-band frequencies (around 1500 MHz) for terrestrial and satellite digital audio radio services. Since WARC-92, NPR has urged that the Commission, with other federal agencies, reconsider the position of the United States on DARS spectrum allocation. The United States can change its spectrum allocation for DARS on a unilateral basis, without further discussion at a world conference. In making any recommendations for WRC-95 and WRC-97, NPR herein urges the Commission to preserve U.S. options for DARS, with a view to conforming the United States position to that of our immediate neighbors and the majority of the nations around the globe.

The recently released report of the U.S. Congress Office of Technology Assessment, similarly comments the view that the U.S.

position at WARC-92 was ill-considered and deserves further policy analysis and debate under conditions that are more open and subject to greater public scrutiny.¹ Due to the absence of open proceedings and discussion of specific factual findings, questions are raised as to whether the position the United States took on BSS-Sound was based on reliable and substantial evidence and whether that position represents the long term best interests of the American public.

Among other things, OTA concludes that the case of BSS-Sound **"represents a missed opportunity for the United States"** and that **"open evaluations of the public interest benefits and/or disadvantages of competing radio resources were never made."**(emphasis supplied)² NPR urges that the Commission consider the OTA Report in its entirety. We offer the following excerpts from the OTA report which, while somewhat lengthy, describe OTA's observations and conclusions on issues that are particularly relevant to this proceeding:

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Perhaps most importantly, until a future conference can be held to plan BSS-Sound, only the top 25 MHz of the allocations can be used to provide BSS-Sound services. This effectively means that the number of potential service providers in the band will be very limited, at least until the requested WARC is held. In addition, the entire world, the exception of about a dozen countries, agreed to the L-band

¹U.S. Congress, Office of Technology Assessment, **The 1992 World Administrative Radio Conference: Technology and Policy Implications**, OTA-TCT-549 (Washington, D.C., U.S. Government Printing Office, May 1993) (Hereafter, "OTA, WARC-92")

²OTA, WARC-92 at 71, 35.

allocation, although in some countries, including most of Europe, the services may not be able to be offered until 2007. Although the United States is not wholly responsible for these outcomes, U.S. actions contributed to an allocation structure that is less than ideal from a global service perspective. The division of the world into three different BSS-Sound allocations could have a number of detrimental effects on the future of the BSS-Sound industry.

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There is no open effective way to compare government and nongovernment spectrum use. WARC-92 was, in large part, a struggle for spectrum between emerging wireless technologies and services and established radio frequency users.

The foremost example of this lack of process was the competition for the coveted frequencies in the L-band. The Federal Government and major aircraft manufacturers use the lower portion of this band (1435-1525 MHz) for aircraft weapons testing. Because these activities are classified, however, the FCC claims it was unable to determine exactly how the government and its contractors use the band -- what frequencies, what times of day, what geographic locations. The government was never forced to fully explain its use of the band. (emphasis supplied)

While a comparison was apparently made between the existing uses of the band and potential revenues, technological gains, and competitive benefits that could be realized by reallocating the band for BSS-Sound, it is unknown what factors were used in the comparison or how they were valued. (emphasis supplied)⁴

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The case of BSS-Sound/DAB represents a missed opportunity for the United States. Based on the reported needs and requirements of the Defense Department and its (politically) powerful allies in the aeronautical telemetry industry, and pressure from the Secretary of Defense, the United States

³OTA, WARC-92 at 75.

⁴OTA Report at 35.

was forced to take a position counter to the majority of the world. The problem is not that the Department of Defense "won," but rather that the (policy) process for determining needs and evaluating competing needs was largely hidden from view. What should have happened was an objective and thorough review of the existing use of the band compared with the potential benefits to American industry, leadership, and consumers of participating in a new worldwide broadcasting system. (emphasis supplied)⁵

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The stakes in the BSS-Sound debate are too important to let things develop without further policy analysis and debate. (emphasis supplied)⁶

These and other OTA observations support the view that the United States should endeavor (1) to facilitate a workable and reasonable BSS-Sound allocation internationally and (2) engage in further domestic policy analysis and debate before proceeding with spectrum allocation decisions in the current DARS applications.

CONCLUSION

The issues raised by the Notice of Inquiry in this docket do not preclude further domestic policy analysis and reconsideration of spectrum allocation for DARS in the United States. The Commission should bear in mind the admonitions of the OTA WARC-92 report in preparing its recommendations for the WRC-95 and WRC-97 agendas. The view that S-band frequencies are necessarily the

⁵OTA Report at 71.


⁶OTA Report at 72.

most advantageous and beneficial for DARS systems for the United States is one that remains subject to serious question. The Commission should not premise any recommendation for future WRC agenda items based on this view. Rather, the Commission should take this opportunity to announce that it will pursue a full and complete reexamination with other relevant federal agencies of the spectrum issues underlying establishment of DARS in the United States.



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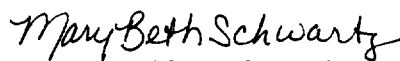
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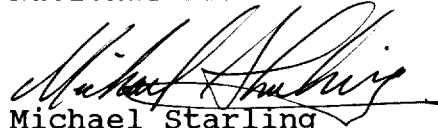
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July 29, 1993